

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

HENRY SENOR
and
LILLIAN SENOR

Claim No. **CU**-3652

Decision No. **CU**-6131

Under the International Claims Settlement
Act of 1949, as amended

FINAL DECISION

The Commission issued its Proposed Decision in this claim on March 24, 1971 certifying a loss to each claimant in the amount of \$11,547.68 for their ownership interests in Finca El Barranco, S.A. which was nationalized by the Government of Cuba on December 6, 1961. The portion of the claim based upon ownership interests in Cia. Inmobiliaria Zulmara, S.A. and Finca Villa Montes, S.A. was denied because there was insufficient evidence to establish a value for the interests claimed.

Claimants objected to that portion of the decision denying the asserted interests in Cuban corporations and submitted additional evidence supporting the values of the two stocks.

In the Proposed Decision the Commission found that claimants owned equal interests in 10 shares of Cia. Inmobiliaria Zulmara, S.A. and 15 shares of Finca Villa Montes, S.A. which were land holding and development companies similar to Finca El Barranco, S.A. and owned land in the area of Guanabacoa, Cuba. On the basis of all the evidence of record the Commission now finds that claimants' interests in Zulmara and Villa Montes were taken by the Government of Cuba on December 6, 1961 pursuant to Cuban Law 989 of that date. The Commission further finds that Zulmara and Villa Montes had net

-2-

values of \$533,000.00 and \$929,500.00 on that date. A share of Zulmara therefore had a value of \$12,690.4761 and a share of Villa Montes had a value of \$6,500.00 on that date.

Accordingly, the Commission holds that each claimant suffered a loss of \$63,452.38 for his interest in Zulmara and \$48,750.00 for his interest in Villa Montes as a result of the actions of the Government of Cuba within the meaning of Title V of the Act.

The Certifications of Loss in the Proposed Decision are therefore set aside and the following Certifications of Loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

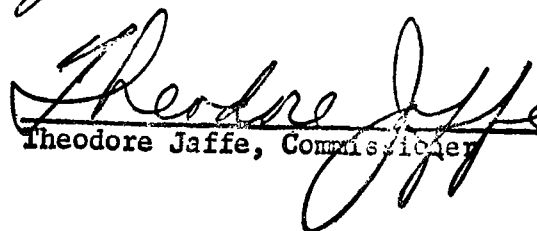
The Commission certifies that HENRY SENOR suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Twenty-Three Thousand Seven Hundred Fifty Dollars and Six Cents (\$123,750.06) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that LILLIAN SENOR suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Twenty-Three Thousand Seven Hundred Fifty Dollars and Six Cents (\$123,750.06) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

OCT 20 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
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IN THE MATTER OF THE CLAIM OF

**HENRY SENOR
and
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Claim No. CU -3652

Decision No. CU 6131

**Under the International Claims Settlement
Act of 1949, as amended**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by HENRY SENOR and LILLIAN SENOR in the amount of \$225,500, based on the asserted ownership and loss of stock interests in Cuba. Claimants have been nationals of the United States since naturalization in 1947.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

Pursuant to the community property law of Cuba, claimants owned equal interests in the property acquired by either of them during coverture, except for inherited property, or gifts (see Claim of Robert L. Cheaney et ux, Claim No. CU-0915).

Claimants summarize their losses as follows:

10 shares of Finca El Barranco, S.A.	\$ 35,500
10 shares of Cia. Inmobiliaria Zulmara, S.A.	100,000
15 shares of Finca Villa Montes, S.A.	90,000

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Finca El Barranco, S.A.

Based on all the evidence of record, the Commission finds that claimants owned equal interests in 10 shares of Finca El Barranco, S.A.

In our Final Decision in the Claim of Ethel H. Berens (Claim No. CU-2313, which we incorporate herein by reference), we held that the

properties owned by the company were nationalized by the Government of Cuba on December 6, 1961, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$2,309.5369. Accordingly, the Commission holds that HENRY SENOR and LILLIAN SENOR each sustained a loss of \$11,547.68 in this connection.

Cia. Inmobiliaria Zulmara, S.A.

On the basis of the record, the Commission finds that claimants owned equal interests in ten shares of Zulmara. A stock certificate indicates that the authorized capital was \$42,000 divided into 42 shares of \$1,000 par. It is said that 42 shares were issued.

Claimant states that this stock interest was purchased for \$9,000 and submits two cancelled checks totalling this amount. The affidavit of Rafael Kier, former president of this land holding and development company states that HENRY SENOR owned ten shares, that he paid \$9,000 and owed \$3,883.20 against the purchase.

The date of loss of Zulmara is not now established, but in any event the claimant has submitted no substantiation of the asserted value of \$100,000 for this stock interest, other than the opinion of Rafael Kier. The Commission has made suggestions as to evidence appropriate for submission, but none such has been received. Evidence of the cost of the investment in 1957 is not evidence of the extent of the loss in or about 1960, the probable time of loss. In the absence of evidence upon which the Commission could make a finding which would be other than speculative or conjectural, it has no alternative than to deny this item of claim, and it is so denied.

Finca Villa Montes, S.A.

The record establishes that claimants owned equal interests in 15 shares of Villa Montes, S.A. A stock certificate reflects that the authorized capital was \$45,045, each share having a par value of \$315. It is said that this stock interest cost \$10,000 and a cancelled check in this amount has been submitted. Rafael Kier, who states he founded this land holding and development company in Guanabacoa states that LILLIAN SENOR owned 15 shares for which she paid \$10,000 on account and owed \$1,385 in connection with this purchase, and gives his opinion that the stock had a value of \$90,000.

In this case, as well as in Zulmara above, claimant has submitted no probative evidence in support of the asserted value. Suggestions made by the Commission have not resulted in submission of appropriate evidence. Evidence of the extent of the investment in 1956 is not evidence of the amount of the loss on the date of taking by the Government of Cuba. Accordingly, this item of claim is also denied.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

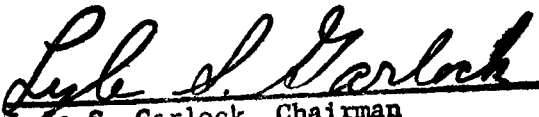
CERTIFICATIONS OF LOSS

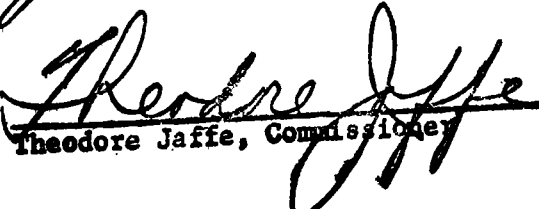
The Commission certifies that HENRY SENOR suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eleven Thousand Five Hundred Forty-seven Dollars and Sixty-eight Cents (\$11,547.68) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that LILLIAN SENOR suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eleven Thousand Five Hundred Forty-seven Dollars and Sixty-eight Cents (\$11,547.68) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAR 24 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)